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~~TOP SECRET//COMINT//NOFORN~~

NATIONAL SECURITY AGENCY

FORT GEORGE G. MEADE, MARYLAND 20755-6000

18 February 2010

MEMORANDUM FOR THE CHAIRMAN, INTELLIGENCE OVERSIGHT BOARD

THRU: Assistant to the Secretary of Defense (Intelligence Oversight)

SUBJECT: (U//~~FOUO~~) Report to the Intelligence Oversight Board on NSA Activities - INFORMATION MEMORANDUM

(U//~~FOUO~~) Except as previously reported to you or the President, or otherwise stated in the enclosure, we have no reason to believe that any intelligence activities of the National Security Agency during the quarter ending 30 September 2009 were unlawful or contrary to Executive Order or Presidential Directive and thus should have been reported pursuant to Section 1.6(c) of Executive Order 12333.

(U//~~FOUO~~) The Inspector General and the General Counsel continue to exercise oversight of Agency activities by inspections, surveys, training, review of directives and guidelines, and advice and counsel. These activities and other data requested by the Board or members of the staff of the Assistant to the Secretary of Defense (Intelligence Oversight) are described in the enclosure.

George Ellard

GEORGE ELLARD
Inspector General

PATRICK J. REYNOLDS
Acting General Counsel

(U//~~FOUO~~) I concur in the report of the Inspector General and the General Counsel and hereby make it our combined report.

KEITH B. ALEXANDER
Lieutenant General, U. S. Army
Director, NSA/Chief, CSS

Encl:
Quarterly Report

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Approved for Release by NSA on 12-19-2014, FOIA Case # 70809 (Litigation)

(b)(1)
(b)(3)-18 USC 798
(b)(3)-50 USC 3024(i)
(b)(3)-P.L. 86-36

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## 1. (U//~~FOUO~~) Intelligence, counterintelligence, and intelligence-related activities that violate law, regulation, or policy substantiated during the quarter, as well as actions taken as a result of the violations

### (U) Intelligence Activities

**~~(TS//SI//REL TO USA, FVEY)~~ Unintentional collection against United States persons**
This quarter, there were [redacted] instances in which Signals Intelligence (SIGINT) analysts inadvertently targeted or collected communications to, from, or about United States (U.S.) persons while pursuing foreign intelligence tasking. All intercepts and reports have been deleted or destroyed as required by United States SIGINT Directive (USSID) SP0018.

~~(S//SI//REL TO USA, FVEY)~~ [redacted] Travel to the United States. During this reporting period, [redacted] valid foreign targets [redacted] the United States.

~~(TS//SI//REL TO USA, FVEY)~~ On [redacted] NSA analysts learned that [redacted] of their targets had arrived in the United States on [redacted] Collection was suspended on [redacted] intercept obtained while the targets were in the United States was deleted from an NSA database [redacted] No reports were issued from the deleted intercept.

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~~(TS//SI//REL TO USA, FVEY)~~ An NSA analyst failed to check his target's telephone selectors when he learned on [redacted] that his target's [redacted] selector was [redacted] The [redacted] telephone selectors were detasked on [redacted] A report based on unintentionally collected domestic communications containing foreign intelligence information was issued to the [redacted] as allowed by Attorney General authorized procedures and NSA reporting policy.

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~~(TS//SI//REL TO USA, FVEY)~~ Analyst error resulted in a selector remaining on tasking for three days while the associated foreign intelligence target was in the United States. On [redacted] the analyst submitted the selector for detasking when she learned [redacted] the United States. [redacted] The discrepancy was found and corrected on [redacted] when the selector was detasked and collection was purged from NSA databases.

~~(TS//SI//REL TO USA, FVEY)~~ Collection occurred on a foreign intelligence target while he was in the United States. On [redacted] an NSA analyst learned that the target traveled to the United States on [redacted] Collection was purged from an NSA database on [redacted]

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Derived From: NSA/CSSM 1-52
Dated: 20070108
Declassify On: 20320108

~~(TS//SI//REL TO USA, FVEY)~~ An NSA analyst overlooked [redacted] when he detasked a foreign intelligence target's selectors [redacted] the United States on [redacted] The selector was found and detasked on [redacted] intercept collected while the target was in the United States was purged from an NSA database on [redacted]

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(U) Tasking Error

~~(TS//SI//NF)~~ A U.S. telephone number was mistakenly tasked for collection. [redacted] an NSA analyst tasked a telephone number believed to be associated with a foreign intelligence target. [redacted] a U.S. number. The selector was detasked on [redacted] resulting intercept was purged. No reports were issued on the collection.

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~~(TS//SI//NF)~~ [redacted] an NSA language analyst learned that [redacted] tasked telephone number selectors believed to be used by foreign intelligence targets. The resulting collection of [redacted] calls was deleted and the selectors were detasked on [redacted] No reporting was produced based on the collection.

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(b)(3)-50 USC 3024(i)
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(U) Database Queries

~~(TS//SI//NF)~~ On [redacted] occasions, analysts constructed poor database queries that had the effect of targeting U.S. persons in databases with unminimized SIGINT information, and on [redacted] of those occasions, the queries returned results from the database. The returned results from the overly broad or incomplete queries were deleted, and no reports were issued. Procedural errors contributed to [redacted] of the [redacted] violations.

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- ~~(TS//SI//NF)~~ [redacted], an NSA analyst queried a [redacted] in an NSA database. The error occurred because the analyst did not perform proper verification of the [redacted] before submitting the query. The query returned [redacted] results which were deleted on [redacted] No reporting was issued based on the query results.

- ~~(TS//SI//NF)~~ [redacted] the database auditor found the error. The analyst deleted the query results on [redacted] when he returned from leave. The results were not reviewed prior to deletion. [redacted]

- ~~(TS//SI//REL TO USA, FVEY)~~ [redacted] an NSA analyst queried an NSA database [redacted] on a foreign intelligence target while the target was in the United States. The analyst mistakenly believed that he could search [redacted] the United States. [redacted] resulting intercept was purged from the NSA database on [redacted]

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- ~~(TS//SI//NF)~~ human error resulted in the targeting of a U.S. telephone number. A SIGINT analyst of a foreign intelligence target in an NSA database containing unminimized and unevaluated SIGINT data. The query and results were deleted No reports were issued.

- ~~(TS//SI//NF)~~ an NSA analyst queried U.S. Communications Security (COMSEC) telephone numbers in an NSA database. The query returned results. The data retrieved by the query had aged off of the database by

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- ~~(TS//SI//NF)~~

- ~~(S//SI//NF)~~ while reviewing skills learned in a query tool training class, an NSA analyst queried on himself and another U.S. person The analyst explained that he thought the query tool was a training version. This violation was found by the analyst's auditor. No collection resulted from the mistake. The analyst completed additional USSID SP0018 training and was counseled that targeting U.S. persons was not authorized at any time.

- ~~(TS//SI//NF)~~ a SIGINT analyst targeted a U.S. telephone number when querying a telephone number believed to be used by a valid foreign intelligence target. The mistake occurred because the analyst The query did not return any results and was deleted when the analyst returned from leave. No reports were issued.

- ~~(TS//SI//NF)~~ an NSA analyst queried an The analyst believed that it could be queried because No collection resulted from the query and no reports were issued.

- ~~(TS//SI//NF)~~ an NSA analyst inadvertently targeted a U.S. while researching information on associated with a valid foreign target. The erroneous query was detected by an auditor The query produced results; however, no reports were issued based on the query. The analyst detasked the selector

- ~~(TS//SI//NF)~~ an NSA analyst performed a query on that resulted in the collection of U.S. data due to a system error The analyst deleted the results without reviewing them

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- ~~(TS//SI//NF)~~ human error resulted in the targeting of the of U.S. persons. An NSA analyst performed queries The queries yielded a total of results. The analyst deleted the queries and query results on No reporting was issued based on the queries.

- ~~(TS//SI//NF)~~ an NSA analyst queried a raw SIGINT database using After realizing the mistake, the analyst immediately deleted the query and results from the database. No SIGINT reporting was produced from the query results.

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- ~~(TS//SI//NF)~~ an NSA analyst performed a query on in a raw SIGINT database while researching a foreign intelligence target. The mistake occurred because the analyst was not familiar with using the database. The analyst deleted the query and results that same day.

- ~~(TS//SI//NF)~~ During an audit of an NSA database database auditors noted that an analyst had queried on The error occurred when the analyst copied and pasted the from one database to another. After realizing the error, the analyst deleted the query No information was disseminated.

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## (U) One End of the Communication in the United States

~~(S//SI//REL TO USA, FVEY)~~ By agreement, pursuant to Executive Order 12333, unminimized SIGINT

- ~~(S//SI//REL TO USA, FVEY)~~

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## (U) Detasking Delay

- ~~(TS//SI//REL TO USA, FVEY)~~ selectors associated with a valid foreign intelligence target remained on tasking after the target entered the United States on The NSA analyst detasked the selectors on after returning from leave. No collection occurred between and

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- ~~(TS//SI//NF)~~ telephone selectors related to a U.S. hostage in were not detasked for two days following the hostage's release. The NSA analyst was notified by at which time the selectors were detasked. While



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NSA's Attorney General authorized procedures allow the targeting of U.S. persons reasonably believed to be held captive by foreign powers, collection should have ceased when the hostage was released. No collection occurred from the unauthorized targeting, and no reports were issued for that timeframe.

- ~~(TS//SI//REL TO USA, FVEY)~~ A selector belonging to a foreign intelligence target was not detasked when the target traveled to the United States on two separate occasions, in one case due to a software problem in the [redacted] Although an NSA analyst detasked the e-mail selector on [redacted] failed to detask the selector. The analyst did not verify the detasking and was not aware of the software problem until [redacted] On [redacted] the analyst was [redacted] from [redacted] The analyst detasked [redacted] No reports were issued. The software problem was not corrected by the end of the reporting quarter, but a process was implemented to notify analysts when detasking does not occur. We will provide an update when the software problem has been resolved. (b)(1) (b)(3)-P.L. 86-36

- ~~(TS//SI//NF)~~ Human error caused targeting of U.S. persons beyond the dates in consensual collection agreements. Targeting occurred on [redacted] occasions between [redacted] and [redacted] because NSA analysts did not review consensual collection tasking. No collection resulted from the targeting errors. The errors resulted from a lack of training for new personnel, personnel transition, and manpower shortages. To reduce the risk of recurrence, the organization created [redacted] before each authorization's expiration.

- ~~(TS//SI//NF)~~ Human error resulted in the targeting of a U.S. person when an analyst targeted a [redacted] a foreign intelligence target. The analyst did not consider that this could retrieve results on the U.S. person. While reviewing the query results, the analyst recognized the mistake. On [redacted] the analyst deleted the query and the results were deleted from the NSA database. No reports were issued. The analyst was counseled on how to create proper queries. (b)(1) (b)(3)-18 USC 798 (b)(3)-50 USC 3024(i) (b)(3)-P.L. 86-36

~~(TS//SI//NF)~~ **Dissemination of U.S. identities** The NSA Enterprise issued [redacted] SIGINT product reports during this quarter. In those reports, SIGINT analysts disseminated communications to, from, or about [redacted] U.S. persons or entities obtained while pursuing foreign intelligence targets. [redacted] SIGINT products were cancelled as NSA and Second Party partner analysts learned of the U.S. persons, organizations, or entities named in the products without authorization. The data was deleted as required and the reports were not reissued or they were reissued with proper minimization. (b)(1) (b)(3)-P.L. 86-36

~~(S//SI//REL TO USA, FVEY)~~ [redacted]

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## (U) The Foreign Intelligence Surveillance Act (FISA)

### (U) Unauthorized Targeting

~~(TS//SI//REL TO USA, FVEY)~~ On [redacted] an NSA analyst reviewing [redacted] selectors learned that a foreign target had traveled to the United States. [redacted] the analyst deleted the [redacted] and instructed branch personnel to delete an e-mail [redacted] No reports were issued based on the collection.

~~(TS//SI//NF)~~ [redacted] an NSA analyst learned that a selector for an approved target on a FISC order remained on tasking [redacted] The selector remained tasked from [redacted] The analyst detasked the telephone number on [redacted] No reporting was issued from the [redacted] intercepts collected from the selector.

~~(TS//SI//NF)~~ [redacted] an NSA analyst targeted a U.S. person before proper authorization had been obtained. The analyst immediately deleted the query after realizing that the selector belonged to a U.S. person. No collection resulted from the query.

### (U) Database Queries

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~~(TS//SI//NF)~~ On [redacted] occasions, SIGINT reports were cancelled and not reissued. During a post-publication review, the NSA [redacted] Chief found that U.S. organizations were mentioned in the reports. On the first occasion, [redacted] was listed, and in the remaining [redacted] reports, an association was mentioned. The reports were reissued with proper minimization. The [redacted] cancelled SIGINT reports are included in the item above on unintentional dissemination of U.S. identities.

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### (U) Retention

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~~(S//SI//REL TO USA, FVEY)~~ [redacted] an NSA database developer noted that a database contained FISA data older than the retention time authorized by the court. The data was discovered during a review of [redacted] All files containing the FISA data were moved [redacted] To prevent future retention errors, the developers have [redacted] and implemented [redacted] FISA data and permanently remove FISA data older than one year.

### ~~(TS//SI//NF)~~ Business Records (BR) Order

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~~(TS//SI//NF)~~ **Business Records Order** [redacted] On 17 and 22 September 2009, an NSA analyst forwarded reports and an e-mail to [redacted] cleared personnel who had not received required specialized BR training.

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### ~~(TS//SI//NF)~~ Pen Register/Trap and Trace (PR/TT) Order

~~(TS//SI//NF)~~ [redacted] an NSA analyst initiated a query beyond the authorized number of hops from an approved PR/TT seed address. The analyst was using an earlier version of a software tool [redacted] The query did not produce any results. The latest version of the tool was implemented [redacted]

~~(TS//SI//NF)~~ [redacted]

### (U) The Protect America Act (PAA)

(U) Nothing to report.

### (U) The FISA Amendments Act (FAA)

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(b)(3)-50 USC 3024(i)
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### (U) Section 702

(U) Targeting

~~(TS//SI//REL TO USA, FVEY)~~ A software error caused a foreign intelligence target, tasked under the FAA [redacted] Certification, to remain on collection at NSA [redacted] while the target was in the United States. The software error occurred on [redacted] and lasted only two minutes. While preventing the complete detasking of the selector, the detasking interface indicated a successful detasking. The error was found [redacted] The selector was detasked between [redacted] Research to determine if other tasked selectors were affected by the same software error was conducted. No other selectors were affected. All resulting collection was purged from NSA databases, and no reports were issued from the collection.

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~~(TS//SI//REL TO USA, FVEY)~~ On [redacted] an NSA analyst erroneously interpreted data [redacted] and targeted a non-U.S. person without sufficient basis to believe that the target had left the United States. The selector was detasked on [redacted] collection obtained for that time period was purged from NSA databases, and no reports were issued.

~~(TS//SI//REL TO USA, FVEY)~~ Selectors tasked on [redacted] for a foreign intelligence target were detasked on [redacted] on the advice of the NSA OGC. Upon review [redacted] and discussions with the tasking analyst, the OGC attorney determined NSA had insufficient justification to task the selectors. Data collected from the selectors was purged from NSA databases [redacted] and no reports were issued from the collection.

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(U) Detasking Delay

~~(TS//SI//REL TO USA, FVEY)~~ On occasions the selectors for foreign intelligence targets tasked under the Certification remained on tasking while the targets were in the United States from until the United States, the NSA analyst attempted to detask the targets' selectors but was unable to enact the detasking because her detasking privileges had been changed. The analyst found the software mistake on and detasked the selectors on Collection that occurred while the targets were in the United States was deleted from NSA databases

~~(TS//SI//NF)~~ NSA analysts discovered that a software glitch prevented the detasking of a selector inside the United States. NSA attempted to detask the e-mail selector on when it the United States. Research revealed that the sent duplicate detasking entries to the tasking system, causing the system to ignore the detasking request. The software glitch was corrected

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(b) (3)-50 USC 3024(i)
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~~(TS//SI//REL TO USA, FVEY)~~ While conducting a FAA selector review an NSA analyst found that one selector belonging to a target was missed when the target's the United States. The selector was detasked No collection resulted between and no reports were issued.

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(b) (3)-P.L. 86-36

~~(TS//SI//REL TO USA, FVEY)~~ Human error resulted in a delay in detasking an e-mail selector to detask the selector. The selector was detasked on when the e-mail selector was the United States, and resulting collection was purged from an NSA database No reporting resulted from the unauthorized collection.

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~~(TS//SI//REL TO USA, FVEY)~~ A target, tasked for collection under the FAA Certification, was not detasked in time to avoid collection when the target entered the United States on Although the NSA analyst submitted the detasking request on Consequently, the selector was not detasked until was collected before the target's selector was detasked. was purged from an NSA database No reports were issued on the intercept.

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(U) Dissemination

~~(TS//SI//NF)~~ SIGINT reports were cancelled and not reissued. In the first report, a foreign intelligence target tasked under FAA Certification

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United States, other reports, all on the same foreign intelligence target tasked under FAA Certification, were cancelled when NSA analysts learned that the target was a naturalized U.S. citizen. The cancelled SIGINT reports are included in the aforementioned section on the dissemination of U.S. identities.

~~(S//REL TO USA, FVEY)~~ an NSA analyst forwarded FAA data to NSA personnel, some of whom were not authorized to view FAA data. The e-mail was recalled and recipients deleted copies

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**(U) Section 704**

(U) Nothing to report

**(U) Section 705b**

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(U) Database Queries

~~(TS//SI//NF)~~ an NSA analyst did not perform due diligence prior to conducting a query in response to request for information. The analyst who is the subject matter expert on the foreign intelligence target was on leave, so another analyst researched the request. Although the analyst was not told that the was a U.S. person who was previously the subject of FAA 705b coverage, the analyst should have fully researched the target prior to acquiring data on a foreign intelligence target. The analyst failed to check the expiration of the court order prior to his query. The court order had expired on . The mistake was found by the subject matter expert when he returned from . The queried data was deleted . No data was disseminated to and no reports were issued.

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~~(TS//SI//REL TO USA, FVEY)~~ an NSA analyst mistakenly queried a foreign intelligence target's selector in a NSA database . The analyst realized the error and deleted the query results on . No reports were issued on the query results.

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(U) **Other**

(U) Unauthorized Access

(U) Computer Network Exploitation (CNE)

~~(TS//SI//NF)~~

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[redacted]

~~(TS//SI//NF)~~ [redacted]

[redacted]

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~~(TS//SI//NF)~~ [redacted]

[redacted]

~~(TS//SI//NF)~~ [redacted]

[redacted]

(b)(1)
(b)(3)-18 USC 798
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(U) Dissemination

~~(TS//SI//REL TO USA, FVEY)~~ [redacted] a SIGINT analyst sent an e-mail containing unminimized U.S. person data to a customer and an NSA data repository. The mistake was discovered by the recipient, who deleted the e-mail and requested a minimized version. The analyst subsequently deleted the e-mail and resent the e-mail with minimized data. The copy containing unminimized U.S. data sent to the data repository was deleted [redacted]

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(U) Collection

~~(TS//SI//REL TO USA, FVEY)~~ [redacted] selectors were tasked at a [redacted] by an analyst who was unaware that [redacted] did not have authorization to task under the FAA. Responsibility for the selectors was transferred to an NSA Washington organization authorized to conduct FAA-related tasking.

(U) **Counterintelligence Activities**

(U) Nothing to report.

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## (U) Intelligence-related Activities

~~(TS//SI//NF)~~ To reduce the risk of unauthorized telephony collection and prevent violations, NSA instituted a process to give analysts greater and faster insight into a target's location. [redacted] In the [redacted] instances when collection occurred, it was purged from NSA databases.

~~(TS//SI//NF)~~ [redacted] NSA analysts found [redacted] e-mail selectors [redacted] Collection occurred in [redacted] of the [redacted] instances and was purged from NSA databases.

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~~(TS//SI//REL TO USA, FVEY)~~ Although not violations of E.O. 12333 and related directives, NSA/CSS reports [redacted] instances in which database access was not terminated when access was no longer required. Once identified, the accesses were terminated. Additionally, there were two instances of account sharing. [redacted] an instructor in a training class accessed the computer and SIGINT database account of a student and queried a fictitious selector. The instructor was teaching the class at a location away from NSA Headquarters, and could not access his computer account or database. Two problems occurred. The first is that the instructor accessed another's computer and database account. The second is that he did not vet his fictitious query to ensure the selector did not belong to a U.S. person. An analyst stopped the instructor and deleted the results of the database query. [redacted] NSA learned that two SIGINT analysts were using a third analyst's account to access NSA databases. Although the two analysts were authorized to access the databases, their actions violated NSA computer security policies. The analysts' database accounts were disabled and later restored due to critical mission support requirements.

## 2. (U//~~FOUO~~) NSA Office of the Inspector General Intelligence Oversight Inspections, Investigations, and Special Studies

(U//~~FOUO~~) During this quarter, the OIG reviewed various intelligence activities of the NSA/CSS to determine whether they had been conducted in accordance with statutes, Executive Orders, Attorney General procedures, and Department of Defense (DoD) and internal directives. With few exceptions, the problems uncovered were routine and showed that operating elements understand the restrictions on NSA/CSS activities.

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### (U//~~FOUO~~) Misuse of the U.S. SIGINT System (USSS)

~~(S//SI//REL TO USA, FVEY)~~ [redacted] an Army analyst assigned to the [redacted] reportedly queried [redacted] in violation of

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USSID SP0018. Reportedly, the analyst queried the foreign numbers to aid in learning the [redacted] language. The analyst's action was not in support of his official, mission-related duties. The analyst's database access and his access to classified information have been suspended.

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(U) **Congressional, IOB, and DNI Notifications**

~~(S//SI//NF)~~ [redacted] NSA orally notified the Congressional Oversight Committees that [redacted] errors, raw data gathered for Computer Security (COMSEC) purposes was available to non-COMSEC elements at NSA. [redacted] While no U.S. person data was included in any SIGINT reporting, these [redacted] errors violated procedures outlined in the National Telecommunications and Information Systems Security Directive (NTISSD 600) that restrict access to raw COMSEC data to personnel authorized to perform the COMSEC mission. NSA has taken appropriate action to correct the errors.

**3. (U) Substantive Changes to the NSA/CSS Intelligence Oversight Program**

(U) Nothing to report.

**4. (U) Changes to NSA/CSS published directives or policies concerning intelligence, counterintelligence, or intelligence-related activities and the reason for the changes**

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(U) Nothing to report.

**5. (U) Procedures governing the activities of DoD intelligence components that affect U.S. persons (DoD Directive 5240.1-R, Procedure 15) Inquiries or Matters Related to Intelligence Oversight Programs**

(U) Nothing to report.